

IN THE UNITED STATES DISTRICT COURT
THE SOUTHERN DISTRICT OF GEORGIA
WAYCROSS DIVISION

DEC 18 PM 1:23
CLERK *L. Moore*
SO. DIST. OF GA.

UNITED STATES OF AMERICA)
)
v.) CASE NO. CR594-002
)
BOBBY LEE INGRAM,)
)
Defendant.)
)
)


O R D E R

Before the Court is the Magistrate Judge's Report and Recommendation (Doc. 200), to which objections have been filed (Doc. 203). Defendant's underlying Petition for a Writ of Audita Querela (Doc. 197) essentially requests that United States v. Booker, 543 U.S. 220 (2005), be applied retroactively to his sentence.¹ However, when a defendant "is collaterally attacking his sentence as violating the United States Constitution, the proper avenue of relief is [section] 2255." Schanck v. United States, 2010 U.S. App. LEXIS 12921, at *2 (11th Cir. June 23, 2010) (unpublished) (alteration in original) (citation omitted). After a careful de novo review, the Court concurs with the Magistrate Judge's Report and

¹ Inapposite to this opinion, "[t]he Supreme Court's holding in Booker is not retroactively applicable to cases on collateral review." Clay v. United States, 260 Fed. App'x 239, 240 (11th Cir. 2008) (unpublished) (citing United States v. Booker, 543 U.S. 220 (2005)).

Recommendation and finds Defendant's objections to be without merit. Therefore, the Report and Recommendation is **ADOPTED** as the Court's opinion in this case. Defendant's petition is **DENIED**.

SO ORDERED this 8th day of December 2010.



WILLIAM T. MOORE, JR.
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA